

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR.**

S.B. CIVIL SECOND APPEAL NO.791/2007

11.12.2007.

HON'BLE MR. JUSTICE DALIP SINGH

Shri M.M. Ranjan, for the appellant.
Smt. Anjoo Shukla, for the respondent.

Heard learned counsel for the parties. The suit for eviction was filed by the plaintiff respondent and the learned lower appellate court has decreed the suit of the plaintiff respondent for eviction on the ground of personal bonafide necessity. The suit was filed in the year 1983 and ultimately came to be decreed by the learned lower appellate court by the judgment dated 6.9.2007 holding that the plaintiff respondent has been able to prove that the suit premises are required for personal bonafide necessity by the plaintiff respondent for the purpose as indicated in the plaint as also that the greater hardship would be caused to the landlord in case the decree for eviction is not passed in his favour.

The above findings are finding of fact and the same cannot be interfered with in second appeal under Section 100 CPC. No substantial question of law arises in this second appeal. Consequently, the same is dismissed summarily.

The appeal has not been admitted and two applications bearing Nos. 30909 dated 27.11.2007 and 30908 dated 27.11.2007 under Order 6 Rule 17 C.P.C. and under Order 41 Rule 27 C.P.C. respectively have been filed by the appellant with a prayer for amendment of the written statement as well as the application No.30908 dated 27.11.2007 under Order 41 Rule 27 CPC for taking on record of the documents namely the sale deed dated 6.3.2003, Arbitrator's award dated 3.10.2002 and the family

settlement. Suffice it to say that the learned trial court decided the suit vide order dated 23.3.2001 and even assuming that these documents came into existence after the judgment of the learned trial court the defendant appellant could have filed the same before the learned lower appellate court. I am therefore of the view that the above two applications deserve to be dismissed as the facts which have been sought to be incorporated by way of amendment could have been moved by way of application before the learned lower appellate court and similarly the documents could have been filed before the learned lower appellate court. In that view of the matter these two applications stand dismissed. Besides the plea which was sought be raised on the basis of these two applications can will be taken care of under the provision of Section 15 of the Rajasthan Premises (Control of Rent and Eviction) Act 1950. This second appeal as well as stay application stand dismissed summarily.

(DALIP SINGH), J.

Ramchandrkhatri, PS